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Craig L Linden
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In re Application of:

LINDEN, CRAIG L.

Serial No.: 09/856,228

Filed: May 16, 2001

Docket: n/a

Title: METHOD AND APPARATUS FOR
POWERED INTERACTIVE PHYSICAL
DISPLAYS

DECISION ON PETITION
TO WITHDRAW FINALITY
OF THE FINAL OFFICE
ACTION

This is a decision on the petition filed Sept. 17, 2006 to withdraw of the finality of the final Office action mailed Jan. 26, 2005.

The petition is **DISMISSED AS UNTIMELY.**

The application was originally filed on May 16, 2001. After many months of prosecution in response to the applicant's amendment of Oct. 24, 2004, the examiner issued a final Office action on Jan. 26, 2005. The current petition to withdraw the finality of the final Office action of Jan. 26, 2005 is filed. The petitioner request to withdraw the finality based on the fact that his amendments after final were timely filed. In the advisory action of April 22, 2005, the examiner rejected the amendments after final because the claims were not allowable or placed in better form for appeal purpose. In the petition, the petitioner also mentioned that there were numerous telephone conversations occurred between the applicant and the examiner in order to advance the prosecution. However, there were no telephone interview records found in the application.

Applicable Rules or Statutes

37 CFR § 1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

37 CFR 1.181(f):

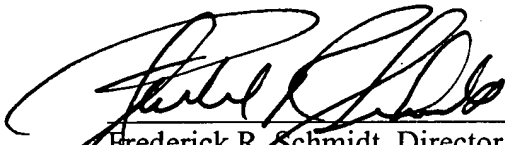
The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within

two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Petitioner purports in the petition that numerous conversations were held with the examiner and her supervisor. Petitioner is reminded according to 37 CFR 1.2 all business with the Office should be transacted in writing. The action of the Office will be based exclusively on the written record in the Office. Accordingly what was or was not agreed to during conversations with the examiner has no bearing upon the decision herein. Review of the record shows that the instant petition was filed more than eighteen months after the mailing date of the final Office action of Jan. 26, 2005. Pursuant to 37 CFR 1.181(f), the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the relief requested will not be granted. Petitioner is entitled to request reconsideration of this decision provided that the request for reconsideration is filed within two months of the date of this decision.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3722 for further processing. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED



Frederick R. Schmidt, Director
Technology Center 3700